

**K. STEVEN ROBERTS**

ATTORNEY AT LAW  
641 FIFTH AVENUE, 29TH FLOOR  
NEW YORK, NY 10022

PHONE (212) 935-9111  
FAX (212) 935-1054

August 30, 1996

via facsimile 717-338-2689

Page 1 of 3

Terry Fishel, Chief  
Wireless Telecommunications Bureau, Land Mobile Branch  
Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, PA 17325

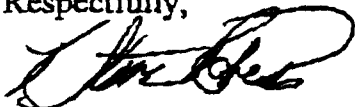
Dear Terry:

I write in follow-up to our telephone conversation last week regarding the status of the Showing of my clients for an extended period of time to construct. In that conversation, you were most helpful in guiding my efforts to assist the Land Mobile Branch in this matter. Taking your advice, I have contacted my co-counsel, Paul C. Besozzi, and requested that he contact David Furth to seek procedural guidance on granting the relief sought by the Showing.

My communication to Paul was in the form of a two-page memorandum which detailed the factual background and the conversations I had last week with you and Michael. As I referenced both your names and your conversations with me, I believe that you should receive a copy of my memorandum for your reference and therefore attach same to this letter. Please share the memorandum with Michael. If the memorandum contains information that either of you do not believe is factually correct, please advise me so that I can promptly correct same. I greatly respect both you and Michael and am deeply appreciative of the assistance you have provided to me and my clients since 1993 on this matter. I am hopeful that Paul's contact to David will provide the requested and needed guidance. I will keep you apprised of any feedback from the contact.

Thank you again for your efforts. Please contact me if I can be of further assistance.

Respectfully,



K. Steven Roberts

Attachment

## MEMORANDUM

DATE: August 28, 1996  
TO: Paul C. Besozzi, Esq.  
FROM: K. Steven Roberts, Esq.  
SUBJECT: Rejustification of Extended Implementation

---

On behalf of my clients, I write this memorandum shall serve to document that status of their efforts to rejustify their existing grant of extended implementation. Attached hereto is a three-page letter dated June 24, 1996, addressed to Michael J. Regiec, Deputy Chief, Land Mobile Branch, Wireless Telecommunications Bureau (the "Bureau"), which is incorporated herein by reference. This letter sets forth the procedural facts relating to the Showing which was submitted to the Bureau in early June 1996. Last week, I had telephone conversations with both Michael Regiec and with Terry Fishel of the Bureau regarding the status of the Bureau's review of the Showing. This memorandum shall serve to document those conversations and my recommendations.

### August 21, 1996, Telephone Conversation with Michael J. Regiec

Michael stated that he had completed his review of the Showing and had determined that the Showing fully satisfied the requirements of Section 90.629(e). Michael advised me that he had prepared a letter of approval and had delivered same to Terry Fishel for further disposition.

### August 22, 1996, Telephone Conversation with Terry Fishel

Terry acknowledged possession of the Showing and the approval of Michael. However, Terry stated that certain of the other showings have requested an extended period of time greater than two years. Terry perceives that a grant of additional time beyond two years would impact the mechanics of the announced and upcoming auction of 800 MHz SMR frequencies and thereby requires further analysis before approvals can be granted to these other showings. Terry acknowledged that the Showing of my clients is not included in this category of showings but has no instruction from the Bureau to treat the various showings separately rather than as one entire group. Terry suggested that I assist him in highlighting this issue and the need of the Land Mobile Branch to be able to distinguish showings requesting the statutory relief of two years provided by Section 90.629(e) and the showings requesting greater relief.

Terry stated that the Land Mobile Branch has requested and is awaiting instruction from the Bureau as to the procedures for granting approvals for those showings which satisfy Section 90.629(e). Terry stated that the Showing of my clients:

- was the first to be filed,
- 
- has already been reviewed and approved by the Land Mobile Branch, and
- 
- only seeks the statutory relief of 2 years set forth in Section 90.629(e);

accordingly, Terry suggested that I contact David Furth of the Bureau and request his assistance in facilitating a prompt response to the request of the Land Mobile Branch for procedures for granting approval of those showings, such as the Showing of my clients, which are in strict compliance with the requirements of Section 90.629(e) and request only the two years of relief set forth therein. Terry further stated that once such response is provided by the Bureau, approval would be immediately granted to the Showing of my clients.

The urgency of my efforts to facilitate the Bureau's approval of the Showing is prompted by the business realities. As you are aware, the super-majority of the licenses granted to my clients were mailed in mid-May 1996. Immediately thereafter the Showing was prepared in strict compliance with the requirements of Section 90.629(e) and was the first to be filed with the Bureau. Since then, on behalf of my clients, I have been aggressive in my efforts to negotiate the requisite vendor and other financing to enable the construction of the base stations comprising the wide-area system of my clients which has already been approved by the Bureau. I am now pleased to inform you that two sources of financing, one being Motorola for base station equipment, have agreed to terms; however, the impediment to finalizing both sources of said financing is the uncertainty caused by not yet receiving the grant of approval of the Showing. As a result, the construction and implementation efforts of my clients are suspended awaiting the approval action of the Bureau.

In light of the foregoing, I recommend that you contact David Furth of the Bureau, inform him of the issue, and seek his prompt assistance. The Bureau, my clients, and the interests of the public would be well served by any assistance he could offer. The issue is really only a matter of internal guidelines to enable the Land Mobile Branch to administer the statutory relief set forth in Section 90.629(e). If you deem it appropriate, you may share the contents of this memorandum and attachment with David Furth. Time is of the essence. Thanks.

\*\*\*\*\* -COMM. JOURNAL- \*\*\*\*\* DATE AUG-30-1996 \*\*\*\*\* TIME 08:31 \*\*\* P.01

MODE = TRANSMISSION

START=AUG-30 08:30

END=AUG-30 08:31

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
-----	-----	-----------	--------------------------------	-------	---------	--------------

001	OK	S	17173382689	003		
-----	----	---	-------------	-----	--	--

\*\*\*\*\* ( FAX-950 U1.24)\*\*\* -

- \*\*\*\*\* -

2129351054- \*\*\*\*\*

**PATTON BOGGS, L.L.P.**  
2550 M STREET, N.W.  
WASHINGTON, D.C. 20037-1350  
(202) 457-6000

FACSIMILE: (202) 457-6315

WRITER'S DIRECT DIAL

(202) 457-5292

August 29, 1996

**BY HAND DELIVERY**

Mr. David Furth  
Chief  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Room 7002, Stop Code 2000C  
2025 M Street, N.W.  
Washington, D.C. 20554

**Re:    Extended Implementation Authority**  
**Rejustification - 800 MHz SMR**

Dear David:

I am writing this at the suggestion of David Kirschner, with whom I discussed the issue in your absence. The communication also derives from the suggestion of the Land Mobile Branch in Gettysburg, as the attached memo reflects.

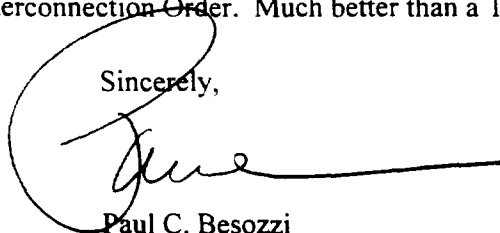
Basically, the recipients of a previously-granted extended implementation authority, who have satisfied the requirements for rejustification and are asking for no more than the minimum the new rule allows, need the approval that the Land Mobile Branch is prepared to give. However, as I read it, the Land Mobile Branch needs the Bureau's blessing to proceed. I understand that in part there may be issues of others, who want more than the two years, that are holding things up.

My clients have adhered religiously to the Commission's process regarding rejustification. The request fits squarely within the Commission's rules. They are, as reported in the attached memorandum, on the verge of completing a vendor financing package which will get this three year project off the drawing board and be of great service to the public. They should not be delayed because others apparently want special treatment, outside the two-year limit.

I would hope, and request, prompt provision of what ever Bureau guidance the Land Mobile Branch needs to favorably dispose of this request. I will call you next week to follow up on this matter.

I hope that your absence this week was a well-deserved vacation. I spent parts of mine reading some of your recent handiwork -- the Interconnection Order. Much better than a Tom Clancy novel.

Sincerely,



Paul C. Besozzi

PCB/lyt

## MEMORANDUM

DATE: August 28, 1996

TO: Paul C. Besozzi, Esq.

FROM: K. Steven Roberts, Esq.

SUBJECT: Rejustification of Extended Implementation

---

On behalf of my clients, I write this memorandum shall serve to document that status of their efforts to rejustify their existing grant of extended implementation. Attached hereto is a three-page letter dated June 24, 1996, addressed to Michael J. Regiec, Depury Chief, Land Mobile Branch, Wireless Telecommunications Bureau (the "Bureau"), which is incorporated herein by reference. This letter sets forth the procedural facts relating to the Showing which was submitted to the Bureau in early June 1996. Last week, I had telephone conversations with both Michael Regiec and with Terry Fishel of the Bureau regarding the status of the Bureau's review of the Showing. This memorandum shall serve to document those conversations and my recommendations.

### August 21, 1996, Telephone Conversation with Michael J. Regiec

Michael stated that he had completed his review of the Showing and had determined that the Showing fully satisfied the requirements of Section 90.629(e). Michael advised me that he had prepared a letter of approval and had delivered same to Terry Fishel for further disposition.

### August 22, 1996, Telephone Conversation with Terry Fishel

Terry acknowledged possession of the Showing and the approval of Michael. However, Terry stated that certain of the other showings have requested an extended period of time greater than two years. Terry perceives that a grant of additional time beyond two years would impact the mechanics of the announced and upcoming auction of 800 MHz SMR frequencies and thereby requires further analysis before approvals can be granted to these other showings. Terry acknowledged that the Showing of my clients is not included in this category of showings but has no instruction from the Bureau to treat the various showings separately rather than as one entire group. Terry suggested that I assist him in highlighting this issue and the need of the Land Mobile Branch to be able to distinguish showings requesting the statutory relief of two years provided by Section 90.629(e) and the showings requesting greater relief.

Terry stated that the Land Mobile Branch has requested and is awaiting instruction from the Bureau as to the procedures for granting approvals for those showings which satisfy Section 90.629(e). Terry stated that the Showing of my clients:

- was the first to be filed,
- 
- has already been reviewed and approved by the Land Mobile Branch, and
- 
- only seeks the statutory relief of 2 years set forth in Section 90.629(e);

accordingly, Terry suggested that I contact David Furth of the Bureau and request his assistance in facilitating a prompt response to the request of the Land Mobile Branch for procedures for granting approval of those showings, such as the Showing of my clients, which are in strict compliance with the requirements of Section 90.629(e) and request only the two years of relief set forth therein. Terry further stated that once such response is provided by the Bureau, approval would be immediately granted to the Showing of my clients.

The urgency of my efforts to facilitate the Bureau's approval of the Showing is prompted by the business realities. As you are aware, the super-majority of the licenses granted to my clients were mailed in mid-May 1996. Immediately thereafter the Showing was prepared in strict compliance with the requirements of Section 90.629(e) and was the first to be filed with the Bureau. Since then, on behalf of my clients, I have been aggressive in my efforts to negotiate the requisite vendor and other financing to enable the construction of the base stations comprising the wide-area system of my clients which has already been approved by the Bureau. I am now pleased to inform you that two sources of financing, one being Motorola for base station equipment, have agreed to terms; however, the impediment to finalizing both sources of said financing is the uncertainty caused by not yet receiving the grant of approval of the Showing. As a result, the construction and implementation efforts of my clients are suspended awaiting the approval action of the Bureau.

In light of the foregoing, I recommend that you contact David Furth of the Bureau, inform him of the issue, and seek his prompt assistance. The Bureau, my clients, and the interests of the public would be well served by any assistance he could offer. The issue is really only a matter of internal guidelines to enable the Land Mobile Branch to administer the statutory relief set forth in Section 90.629(e). If you deem it appropriate, you may share the contents of this memorandum and attachment with David Furth. Time is of the essence. Thanks.

**K. STEVEN ROBERTS**

ATTORNEY AT LAW  
641 FIFTH AVENUE, 29TH FLOOR  
NEW YORK, NY 10022

PHONE (212) 935-9111  
FAX (212) 935-1054

June 24, 1996

via facsimile 717-338-2689

Page 1 of 3

Michael J. Regiec, Deputy Chief  
Wireless Telecommunications Bureau, Land Mobile Branch  
Federal Communications Commission  
1270 Fairfield Road  
Gettysburg, PA 17325

Dear Mike:

On June 4, 1996, on behalf of the Licensees set forth on Exhibit A hereto, I delivered to you the Extended Implementation Authority Showing under Section 90.629(e) of the Commission's Rules (the "Showing"). Later that same day, the Wireless Telecommunications Bureau (the "Bureau") issued a Public Notice which outlined the information to be provided by 800 MHz SMR licensees seeking to retain extended implementation authority. In immediate response thereto, on June 12, 1996, I caused the delivery to you of a Supplement to Extended Implementation Authority Showing (the "Supplement"). Then, on June 13, 1996, the Bureau released an Order which extended the deadline for filing extended implementation rejustifications from June 17 to July 15, 1996 (the "Order").

On behalf of the Licensees, I now write to prompt a review of the Showing and Supplement (hereinafter, collectively referred to as the "Showing"). In the Order, the Bureau stated that "the public interest would be served by granting an extension of time to enable licensees to compile the information requested by the Rejustification Public Notice" but also stated that "Nevertheless, this extension of time to file will not affect the timing or duration of any extended implementation grant that may be granted by the Bureau." Of concern to the Licensees is the possibility that the extended deadline for filing rejustifications might serve to delay the review of the timely-filed Showing. As the Order clearly states, "this extension of time to file will not affect . . . the duration of any extended implementation grant". Accordingly, any delay by the Bureau in review of the Showing would only serve to unreasonably prejudice the Licensees. The Licensees did not require an extension of time to file the Showing. Accordingly, in light of the timely filing of the Showing by the Licensees, equity requires, and the Licensees respectfully request, that the Bureau review the Showing and promptly grant the relief sought therein.

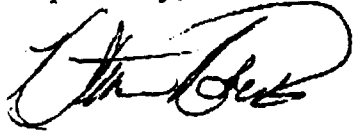


June 24, 1996

Page 2

As always, thank you for your attention and assistance. Please call me if you have any questions. I look forward to your response.

Respectfully,

A handwritten signature in black ink, appearing to read "K. Steven Roberts". The signature is fluid and cursive, with a large loop at the end.

K. Steven Roberts

Attachment

## **EXHIBIT A**

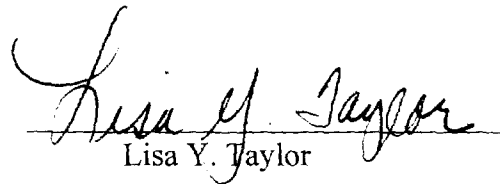
### **LIST OF LICENSEES**

Harrowby TV, Inc.  
USITV, Inc.  
MTI TV, Inc.  
Ooh Baby! Productions, Inc.  
Ashcroft ITV, Inc.  
Italia TV, Inc.  
O'Neil TV, Inc.  
HGTV, Inc.  
SGTV, Inc.  
RMTV, Inc.  
JMTV, Inc.  
Joan Moore, Inc.  
Elizabeth Martone, Inc.  
Bill Roberts, Inc.  
Mary Francis Martone, Inc.  
Shelly Curtright, Inc.  
Maureen Widing, Inc.  
Dru Jenkinson, Inc.  
Joseph Martone, Inc.  
Jana Green, Inc.  
Kathy Recos, Inc.  
Jeff Roberts, Inc.  
Patricia Fleming, Inc.  
Tad Dobbs, Inc.  
Wes Dalton, Inc.  
Steve Dowdy, Inc.  
David X. Crossed, Inc.  
Scott Mayer, Inc.  
Hunter ITV, Inc.  
Tenth Street TV, Inc.  
BBTV, Inc.  
JBTV, Inc.  
Lynn Adams, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of June 1997, I have caused to be served a true and correct copy of the foregoing **"PETITION FOR PARTIAL RECONSIDERATION BY ROBERTS LICENSEES"** by hand delivery to the following individual:

Daniel Phythyon, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 808  
Washington, D.C. 20554

  
Lisa Y. Taylor